THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.7567 OF 2006

DATED: 17-04-2006

BETWEEN

L.V.S. Hara Gopal,

S/o. Chalapathi Rao,

R/o. Kakinada,

East Godavari District

and another.

...PETITIONERS

AND

Kakinada Municipal Corporation

Rep. by its Commissioner,

Kakinada, East Godavari District

and another.

...RESPONDENTS

ORDER:

This writ petition is filed to declare the action of the respondents authorities in attempting to demolish the building bearing Door No.42-1-8, situated at Cinema Road, Kakinada, East Godavari District without following the procedure of law as illegal and arbitrary.

Learned counsel for the petitioners submits that the petitioners and their mother are the owners of the aforementioned premises having purchased the same under registered sale

deed and have been paying taxes regularly to the first respondent. While so, the petitioners came to know that the buildings were being demolished for road widening and the respondents gave a marking to the building of the petitioners stating that they will demolish the same to a width of 10 feet. The respondents with a view to ease the traffic congestion and thereby ensure free flow of traffic have taken up the job of road widening on all the main roads of Kakinada. He further submits that the building of the petitioners is situated in their own site and there is no encroachment and there are no deviations.

The main grievance of the petitioners is that the respondents have not issued any notice before deciding to demolish the said building and the respondent corporation is trying to demolish the building for the purpose of widening the road without acquiring the property as contemplated under Chapter V of Hyderabad Municipal Corporation Act or under Land Acquisition Act, without following the due procedure prescribed under law and without paying any compensation either by way of private negotiations or by way of initiating proceedings under the Land Acquisition Act is utter violation of the principles of natural justice as well as Sections 146 and 147 of the Municipal Corporation Act (for short 'the Act').

No doubt widening/laying of the road is in the public interest but while laying the road, if any property of private individual is coming in the way, it is for the respondents to acquire the same either by way of initiating land acquisition proceedings or by following due process of law.

Having regard to the facts and circumstances of the case,
the respondents are directed not to demolish the structures of the petitioners and not to dispossess them without following due process of law either under Section 146 or 147 of the Act or by private negotiations or by initiating the proceedings under the Land Acquisition Act, 1894.

The writ petition is accordingly disposed of.

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V. ESWARAIAH, J

April 17, 2006

Note: Furnish C.C. of the order by 19.04.2006

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DSK